



**U.S. Immigration
and Customs
Enforcement**

November 15, 2018

Ghita Schwarz, Esq.
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012

RE: Immigrant Defense Project, et al. v. ICE and DHS, No. 14-cv-6117 (JPO)
FOIA Case Number: ICE 2014-FOIA-01578; 2015-ICLI-00012
Final Release

Dear Ms. Schwarz,

This letter is the final interim response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated October 17, 2013, for records relating to Department of Homeland Security (DHS) and ICE home-based enforcement operations, the subject of the above-referenced litigation in the U.S. District Court for the Southern District of New York.

ICE has considered your request under the FOIA, 5 U.S.C. § 552.

A total of 1,874 pages of records were reviewed for this interim production. The 1,874 pages of records were located pursuant to a search of the ICE Enforcement and Removal Operations (ERO) office. ICE has determined that 413 pages of records are non-responsive and duplicates to the request and the attached responsive 1,461 pages of records have been marked 2015-ICLI-00012 - 55 through 2015-ICLI-00012 - 1515. Upon review, ICE has determined that portions of the 1,461 pages will be withheld pursuant to FOIA Exemptions, (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E) of the FOIA as described below:

ICE has applied FOIA Exemption 5 to protect from disclosure intra-agency documents that contain the recommendations, opinions, and conclusions of agency employees, and portions of the responsive documents which qualify for protection under the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege.

FOIA Exemption 5 protects inter-agency or intra-agency memorandums or letters which not be available by law to a party other than an agency in litigation with the agency. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in

contemplation of litigation. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names, e-mail addresses, and phone numbers of ICE and DHS employees contained within the documents, as well as the names, and other personally identifiable information of other individuals contained within the records.

FOIA Exemption 6 exempts from disclosure information in personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes when production of such could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interests in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate.

ICE has applied FOIA Exemption 7(E) to protect from disclosure internal agency law enforcement case numbers contained within the document, internal codes used to identify folders in an internal ICE task management system, law enforcement database category codes, and law enforcement techniques.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this response, please contact Trial Attorney Peter Aronoff with the United States Attorney's Office at (212) 637-2697.

Sincerely,

Toni Fuentes for

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 1,461 pages

cc: Peter Aronoff
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